

Appl. No. 09/420,991  
Amdt. dated November 5, 2003  
Reply to Office Action of August 8, 2003

PATENT

## REMARKS/ARGUMENTS

### STATUS OF THE APPLICATION

Claims 1-26, 28-31, 33-41, 59-77, 79-82, and 84-89 were pending in this application and examined.

Claims 1-23, 26, 33-36, 37-41, 59-74, 77 and 85-89 are rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,857,175, which issued January 5, 1999 to L. Day *et al.* and further in view of U.S. Patent No. 4,882,675, which issued November 21, 1989 to S. Nichtberger *et al.* Claims 24-25 and 75-76 are rejected under 35 U.S.C. § 103(a) over Day and Nichtberger and further in view of U.S. Patent No. 5,687,322 which issued November 11, 1997 to D. Deaton *et al.*

Applicant gratefully acknowledges Examiner's indication that claims 28-31, 33, 79-82 and 84 define patentable subject matter. The Examiner states that these claims would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims.

Applicant has amended claim 79 to correct an inadvertently introduced typographical error.

Claims 1-26, 28-31, 33-41, 59-77, 79-82, and 84-89 remain pending in this application after entry of this amendment.

### THE CLAIMS

#### Claims 1 and 59

Claim 1 recites:

"1. A method for distributing and redeeming electronic promotions to a plurality of consumers through a communications network, comprising:  
maintaining an account for each consumer, said account having a limited direct identification of said consumer with said account to exclude identification of said consumer by name; ..." (Applicant's claim 1, emphasis added).

Claim 59 recites:

"59. A method for distributing and redeeming electronic promotions to a plurality of consumers through a communications network, comprising:

Appl. No. 09/420,991  
Amdt. dated November 5, 2003  
Reply to Office Action of August 8, 2003

PATENT

maintaining an account for each consumer; said account having a limited direct identification of said consumer with said account to exclude identification of said consumer by name; ..." (Applicant's claim 59, emphasis added).

As shown above, claims 1 and 59 both recite that the account has a "limited direct identification of said consumer with said account to exclude identification of said consumer by name." The recited claims thus specifically exclude using the consumer's name to identify the consumer. The limited direct identification preserves the anonymity of the consumer. Anonymity is an important aspect of this embodiment of the Applicant's invention since the collection of personal information can be repugnant to notions of individual privacy (see Specification: page 2 lines 25-31). As a result, the present invention as recited in claims 1 and 59 addresses privacy concerns of the consumer in a flexible way, while providing for the effective targeting of consumers (see Specification: page 2 lines 32-37). This also provides an effective solution in situations where one may find individual resistance to divulging personal information and/or legal restraints are placed on the use and gathering of personal information (see Specification: page 2 lines 25-31).

Applicant submits that Day does not teach or even suggest the concept of "limited direct identification" as recited in claims 1 and 59. Day is not concerned with the privacy of consumers. Nowhere does Day discuss or even suggest the notion of user privacy or the need for preserving the anonymity of a user. In fact, the word "privacy" is not even recited in Day. On the contrary, Day suggests any means of identifying a consumer (col. 4 lines 37-41), which clearly could include the consumer's name. Day fails to provide any limitation on consumer identification.

The Applicant submits that Nichtberger also fails to teach or suggest the concept of "limited direct identification" of consumers. Nichtberger does not, in any way, address the privacy of consumers. This point is evident by the fact that Nichtberger uses customer names to identify accounts (col. 5 line 61; col. 6 line 9; col. 7 line 26).

Accordingly, Applicant submits that claims 1 and 59 are not taught or suggested by Day or Nichtberger. Preservation of the consumer's anonymity by "limited direct identification" is not taught or suggested by these references. Furthermore, even if the references

Appl. No. 09/420,991  
Amdt. dated November 5, 2003  
Reply to Office Action of August 8, 2003

PATENT

were combined (and there is no clear motivation or basis to do so), the resultant combination would not be concerned with preserving the anonymity of the user by using "limited direct identification" of the consumer and would thus not make obvious the present invention as recited in claims 1 and 59.

Applicant thus respectfully submits that claims 1 and 59 should be allowed for at least the above reasons.

Claims 2-26, 28-31, 33-41, 60-77, 79-82, and 84-89

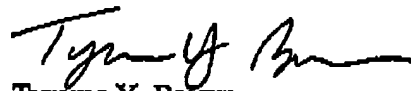
Applicant submits that claims 2-26, 28-31, 33-41, 60-77, 79-82, and 84-89, which depend from claims 1 or 59, should also be allowed for at least a similar rationale as discussed above for allowing claims 1 and 59.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

  
Tyrome Y. Brown  
Reg. No. 46,580

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
TYB:tyb/km  
60033862 v3